

THE INDIGENOUS STRUGGLE FOR WATER RIGHTS IN SEVENTEENTH CENTURY
NEW SPAIN

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ABSTRACT

Cody J. Love: The Indigenous Struggle for Water Rights in Seventeenth Century New Spain
(Under the direction of Cynthia Radding)

This project examines how indigenous agrarian communities in Mexico's Central Highlands used both legal and extralegal strategies to maintain their access to water while facing increasing environmental changes and competition from private landholders, cities, and other indigenous communities during the seventeenth century. A careful analysis of legal disputes over water reveals how indigenous communities leveraged their legal statuses, rhetorical strategies, and direct means of control to maintain their ability to irrigate their fields during a period of increasing demand for water. It also shows that despite the changes in imperial policy, indigenous communities continued trying to exploit hegemonic authority in local power struggles to assert their communal sovereignty. As such, legal and direct confrontations over water access were more than struggles for subsistence or economic gain. Rather, these struggles were assertions of local power over the landscape in which indigenous communities vied against each other and an increasing colonial presence.

To Elizabeth, my wife, partner, and best friend, thank you for your undying love and support.
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I would also like to thank the archivists at the Archivo General de la Nación de México (AGN) and the Archivo General del Estado de Oaxaca (AGEO) for their guidance and tireless work to keep the archives catalogued, maintained, and accessible.

Finally, this work would not have been possible without the stories of the communities who fought for control of their resources during the dramatic changes of the colonial period. Many of their descendants continue to struggle against neoliberal policies and powerful private interests for their ancestral rights, national recognition, and vital resources. Every effort should be made to acknowledge and support their original rights to the landscape.

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INTRODUCTION

On April 29, 1698, a legal battle began in Zimatlan, Oaxaca, between the pueblo of Santa Maria Lachicho and the owner of an hacienda called Matagallinas. The *hacendado* (owner) and slaveholder Alferez Nicolas Ulloa Callexas accused the residents of Santa Maria Lachicho of illegally seizing his land near a river and illegitimately claiming water access. The leaders of the pueblo testified that they held traditional rights to these lands and water and the written evidence to prove it. The litigants appealed the case up to the Real Audiencia in Mexico City, which ruled in favor of Ulloa Callexas and ordered the villagers to vacate the land. However, the community leaders refused to leave until they had the chance to present their own evidence in the city of Antequera. Thus began a years-long struggle over this piece of land and the water that flowed through it, a struggle that escalated quickly. Ulloa Callexas complained that the villagers began to behave violently towards him and his property, while the pueblo claimed that the hacendado had destroyed their planted fields. The conflict climaxed on February 16, 1700, when Ulloa Callexas, backed by his servants, neighbors, and colonial officials, attempted to forcibly evict the villagers from this land. The community rebuffed the attempt by gathering on a defensible hill, armed with sticks and hatchets. They forced the Spanish colonists to retreat in the face of such overwhelming resistance, taking with them a letter by the village leaders appealing the case to the Audiencia in Mexico City. Although no violence occurred that day, the threat of violence

forced a continuance of the negotiations over the land and its water, and in the meantime the pueblo continued to grow their crops with these resources.¹

Individuals and entities in colonial Central Mexico often sought arbitration over access and control to natural resources like water. If the people sharing a water source could not come to an equitable and agreeable arrangement, they formalized the dispute before colonial officials as a first course of action. For several reasons, however, court proceedings often failed to resolve this conflict. Indigenous communities may have lacked the documented evidence to support their *de facto* and traditional rights to the water. They also faced encroaching settlers and corrupt officials who used legal channels to appropriate their lands, or rural politics in which their neighbors conspired against them due to some perceived slight by indigenous leaders. Even if a pueblo did have evidence and a favorable relationship with their neighbors, the seasonal and annual variability of water supplies sometimes made it impossible to wait for a court ruling when their lives and livelihoods were at stake.

Therefore, practical and social authority (authority gained through direct action or social standing) determined access to water rather than legal authority (authority bestowed by the colonial government). As a result, indigenous communities often resisted Spanish encroachment on their land and resources through extralegal means while engaged in arbitration to retroactively legalize these direct means or secure water access for future use. Furthermore, pueblos engaged in a deeply political form of peasant resistance with the goal of securing communal autonomy and control of traditional resources. They employed strategic use of offensive and defensive tactics, and a pattern of selective escalation designed to maximize impact against their opponents while minimizing risk to the community. Through all of this, they sought to portray themselves

¹ AGEOAM 60.2, 1700.

as loyal, peaceful subjects of the Spanish Crown while seeking to undermine the authority of local officials and colonial settlers. In other words, they called on royal authority to bolster their position in local power struggles.

A broad survey of resistance taken by indigenous communities in key areas of Central Mexico illuminates an ongoing struggle for control of natural resources.² While rebellion was the most obvious form of resistance in colonial Mexico, it was not the only manifestation of conflict. Often, rebellion was just the overt, punctuated expression of a much longer and less visible conflict – the last resort when all other options had been exhausted.³ Contrary to persistent narratives, the indigenous population of Central Mexico never fully capitulated to colonial hegemony. Indigenous communities continued to fight for control of their material resources as a means of maintaining their precolonial power. Despite the losses they experienced in the seventeenth century, many communities successfully defended their resources and political status as pueblos.

This effort reorients scholarly perspectives on the goals and strategies of indigenous resistance against encroachers on their resources through a close reading of legal disputes over water. I argue that rather than merely vying to secure physical resources, indigenous agrarian communities fought persistent political battles to secure local power for themselves and future generations. While engaging with the colonial legal system did reinforce state power at a macrolevel over New Spain's indigenous population, pueblos could leverage this same system

² This study examines sixteen legal disputes over water rights involving indigenous communities in the semi-arid central highlands of México (within the modern states of Oaxaca, Puebla, Tlaxcala, México, Guanajuato, and Hidalgo) from 1587 to 1733.

³ James Scott, *Weapons of the Weak: Everyday Forms of Peasant Resistance* (New Haven: Yale University Press, 1985): 29.

against their enemies at a local level to secure autonomy and sovereignty over their economic interests.

VULNERABLE LANDSCAPES: IRRIGATION AND POWER

A semi-arid climate with seasonal, sometimes unpredictable rainfall dominates much of Central Mexico, and the people who live there have developed complex techniques to maximize their crop yields and endure ecological hardships such as drought and flood. Planting and harvesting follow a pattern of seasonal rainfall, but this seasonal variability is unpredictable. Irrigation of cropland through the controlled diversion of rivers plays a crucial role in subsistence and economic viability in this climate.⁴

Archaeologists have unearthed canals and ditches diverting natural water sources in the Basin of Mexico dating to as early as 700 BCE.⁵ Many early agricultural societies in the Mexican highlands developed irrigation technology to counter the unpredictable rainy season, thereby protecting their crops from drought and providing opportunities for multiple harvests each year. They also took advantage of microbiomes across different elevation ranges to exploit a wide variety of ecological resources.⁶ In the Mixteca Alta (the Nochixtlán river valley), agriculturalists developed complex terracing systems called *lama-bordos* around 1000 C.E. (or possibly earlier) using dykes cut into hillsides to funnel both rainwater and fertile runoff into

⁴ María de los Ángeles Romero Frizzi, *El sol y la cruz: los pueblos indios de Oaxaca colonial* (México: CIESAS, 1996): 21-43.

⁵ Vernon L. Scarborough, *The Flow of Power: Ancient Water Systems and Landscapes* (Santa Fe: SAR Press, 2003): 115.

⁶ William T. Sanders et al., *The Basin of Mexico: Ecological Processes in the Evolution of a Civilization* (New York: Academic Press Inc., 1979): 81-9.

agricultural beds. This practice used artificial erosion to make previously desolate land extremely productive; modern Mixteca farmers still effectively use lama-bordo terracing.⁷

In the sixteenth and seventeenth centuries, migrations of Iberian agriculturalists brought in new technologies that added to the complexity of highly regulated systems engineered by the indigenous population.⁸ The rural landscape of Central Mexico became a panoply of different cohabiting settlement and agrarian patterns, including communal and private subsistence and market farms clustered around indigenous villages, small hold ranches, haciendas specializing in cash crops or grazing, mines, mills, and uncultivated forests and mountains. Water was the lifeblood of it all, and its flow through rivers, ditches, and seasonally dry streams (*arroyos*) determined not just the shape of these patterns, but of the social and political struggles that lay within them.

Scholars have frequently characterized the seventeenth century as the “long colonial middle,” which refers not just to its position in the middle of the three hundred years of Spanish colonialism in Mexico, but also its status as a relatively peaceful period between the violent imposition of Spanish colonialism in the sixteenth century and the violent unraveling of colonial rule in the eighteenth century. However, this characterization hides major changes within New Spain during this period. Many of the problems that had become acute in eighteenth century arose during the seventeenth century and grew unchecked.

By the middle of the century, the indigenous population began to recover after waves of epidemic diseases ravaged the densely populated regions of Central Mexico. This put a greater

⁷ Ronald Spores, “Settlement, Farming Technology, and Environment in the Nochixtlan Valley,” *Science* vol. 166, no. 3905 (October 31, 1969): 563-4.

⁸ Gene C. Wilken, *Good Farmers: Traditional Agricultural Resource Management in Mexico and Central America* (Berkeley: University of California Press, 1987).

demand on agricultural watersheds to feed the increasing population and support the growing agricultural industry. An intensification of Spanish migration in the seventeenth century not only increased the population further, but also introduced new strains to the water supply. Cities and towns grew, drawing greater quantities of water from their wells. Mining also consumed significant quantities of water, as did sugar and wheat mills.⁹

At the same time, ecological and climatic changes increased the frequency of silting rivers, droughts, and floods. Many of these factors originated from human practices. Grazing animals, principally sheep and cows, commonly trampled and overgrazed native groundcover, which increased runoff of rainwater, thereby decreasing the ground supply and quickening erosion and river silting. The deforestation that opened new pastures and fueled the mining industry's demand for charcoal had similar consequences. Even European farming methods such as ox-driven deep-furrow plowing exacerbated erosion and penetration.¹⁰ Ronald Spores noted that certain indigenous practices, like the Mixteca lama-bordo terracing system described above, must also have been a significant factor in the endemic erosion problem, but these new European methods, developed in a very different environment from the Mexican highlands, severely exacerbated environmental degradation.¹¹

Finally, the seventeenth century witnessed an increase in extreme weather events like floods and extended and more frequent periods of drought. This, coupled with epidemics, created punctuated periods of havoc and upheaval in rural society. Malnutrition, famine, disease, and

⁹ Georgina H. Endfield, *Climate and Society in Colonial Mexico: A Study in Vulnerability* (Malden: Blackwell, 2008): 140.

¹⁰ Elinor G. K. Melville, "Environmental Change and Social Change in the Valle del Mezquital, Mexico, 1521-1600" and Robert MacCameron, "Environmental Change in Colonial New Mexico," *Agriculture, Resource Exploitation, and Environmental Change*, ed. Helen Wheatley, *An Expanding World*, v. 17 (Hampshire: Valiorum, 1997).

¹¹ Spores, "Settlement, Farming Technology, and Environment," 563-4.

starvation took its toll on the population. Destruction from floods or the losses from repeated droughts caused communities to fracture as people sought opportunities elsewhere, such as work on haciendas, in mines, or in the growing provincial and capital cities. Both indigenous and Spanish people had developed strategies to cope with this unreliability, such as food and water storage, but this did not completely mitigate losses.

These factors combined to make water scarcity a common reality across Central Mexico. Managing the diverse interests of communities and individuals drawing from water sources became a critical function of the colonial government, and the seventeenth century saw a rise in appeals for *mercedes de agua* (grants of water usage) and lawsuits contesting water usage.¹² Access to water was critical to subsistence and economic security. Residents of shared watersheds worked to cooperate and ensure equitable access to water sources but grew increasingly hostile and litigious towards each other as water grew scarcer and disparities, whether real or perceived, began to emerge.¹³

DISTRIBUTION OF AND DISPUTE OVER WATER

Archaeologists have drawn a correlation between water management systems and power structures since Karl Wittfogel's 1957 book *Oriental Despotism* analyzed ancient Asian water systems to argue that irrigation inevitably led to the centralization of hegemonic state power. This deterministic theory has been roundly rejected by social science because scholars have since explored a number of irrigation models that fall outside of centralized states, such as those in Bali or the Maya lowlands of Central America.¹⁴ Instead, Vernon Scarborough proposed a model

¹² Endfield, *Climate and Society*, 70-3.

¹³ Michael E. Murphey, *Irrigation in the Bajío Region of Colonial Mexico* (Boulder: Westview Press, 1986): 25-32.

¹⁴ Scarborough, *The Flow of Power*, 17-34.

in which water management and power were closely related, but mediated by factors such as population density, land availability, settlement patterns, and cultural and religious norms about technological adaptation, labor tasking, and environmental regulation. In this model, power could be centralized or dispersed; water could be regulated by state appointed officials, local magistrates, communal agreements, warring factions, or by deities themselves (interpreted and implemented by religious leaders). Nonetheless, water systems reflected power structures in the way that water managers controlled distributions and mediated disputes.¹⁵

Scarborough demonstrated this model through a study of *chinampas* (raised agricultural beds reclaimed from swampland) in the Basin of Mexico. *Chinampa* agriculture predated the rise of the Classic Teotihuacano (CE 1-750) and Post-Classic Tenochtitlan (CE 1350-1521) hegemonic state powers, but both states took advantage of this food base to fuel the expansion of their urban centers and power. Their increased control in turn led to a more regulated water system, and a more dramatic manipulation of rivers and basins to maximize their agricultural output and transport of goods.¹⁶ Through a detailed analysis of the Basin's ecology and archaeological remains of water management systems, William Sanders determined that irrigation significantly boosted the output potential of agricultural land, and indeed this boost was necessary for hegemonic state formation.¹⁷ While Sanders, like Wittfogel, drew a causative link between irrigation and hegemonic state power, Scarborough showed that outside the Basin small agricultural communities (or, as in the case of Oaxaca, small urban centers) also relied on extensive agriculture regulated through dispersed communal authority. While the Basin provided

¹⁵ Ibid., 9-16.

¹⁶ Ibid., 115-25.

¹⁷ Sanders et al., *The Basin of Mexico*, 385-95.

a concentrated area of irrigable agricultural land more conducive to large states, the rest of the highlands rely on narrow pockets along river valleys, which foster more local power relations over water.¹⁸ Before the arrival of the Hispanic settlers then, indigenous communities in Central Mexico had not only altered their environment to more effectively exploit water sources and arable lands, but had also developed sophisticated power relations over water that varied by ecology and culture.

Despite the dramatic changes wrought by the Hispanic colonists, land grants to colonists settling in New Spain stipulated that occupation of the land and use of its resources be done *sin perjuicio*, or “without prejudice,” to the rights of the Crown or any third party. Among these rights included those of indigenous communities, which were entitled to “sufficient water, arable lands, woodlands, and access routes so that they can cultivate their lands.”¹⁹ William B. Taylor has argued that the status of Indians as “innocents” or “miserables” under Spanish colonial policy granted them preferential treatment in land grants and disputes, as evidenced by the *sin perjuicio* requirement. In practice, however, legal title took precedent over traditional usage in water disputes, especially with the imposition of the *composición* in 1591, which required written title to verify land ownership. Any *de facto* landholder, either individual or communal, could gain written title to their land and resources by paying a fee, but this opened an opportunity for colonists to begin purchasing indigenous communities’ lands out from under them.

Communities had to scramble to come up with the resources to purchase their titles and to find written evidence of ownership (such as paintings, genealogies, maps, and plans) to

¹⁸ Scarborough, *The Flow of Power*, 124-5.

¹⁹ William B. Taylor, “Land and Water Rights in the Viceroyalty of New Spain,” *New Mexico Historical Review* 50, no. 3 (1975): 194-5.

support their claim.²⁰ Despite the Spanish legal system's preference for documented evidence, titles to water were often absent or contradictory. As a result, courts considered the practicality and equitability of water distribution equally with the titled ownership.²¹

Possession of land did not necessarily equal *ownership* in *Las Siete Partidas*, Spain's medieval legal code adapted from Roman law. According to Brian Owensby, "possession" (*posesión*) of land was more closely linked to occupation and use, whereas "property" (*señorío*) or ownership indicated a legal right to have the land. Ownership was much more difficult to prove under Spanish law, whereas possession was a simple matter: the possessors had merely to show *de facto* control of the land for a number of years and that they had not usurped it from someone previously using it. Litigants usually deployed the term "ancient possession" (*posesión antigua*) as a shorthand for this concept. Someone could gain possession of unused land (*tierras baldias*) by occupying and developing it; inversely, someone could lose possession of their land by letting it fall out of use.²² However, indigenous agricultural techniques differed highly from Hispanic tradition, and many Spaniards thus perceived as unused land that was either in fallow or used for nonagricultural purposes by indigenous people. Because colonial definitions of land use were drawn from Hispanic and not indigenous legal traditions, many haciendas successfully usurped land that was used extensively by indigenous people.

Before the 1640s, water and land rights were usually granted together, using language such as granting *caballerías* of land "and the water needed to irrigate them."²³ For example, on

²⁰ Ethelia Ruiz-Medrano, *Mexico's Indigenous Communities: Their Lands and Histories, 1500-2010* (Boulder: University Press of Colorado, 2011): 101.

²¹ Taylor, "Land and Water Rights," 191-207.

²² Brian P. Owensby, *Empire of Law and Indian Justice in Colonial Mexico* (Stanford: Stanford University Press, 2008): 91-3.

²³ Taylor, "Land and Water Rights," 197.

August 3, 1608, the Viceroy granted “three *caballerías* of land” to the *principal* (indigenous leader) of the city of Cholula, along with “a course of water from an *arroyo* for the watering and benefit of said lands.”²⁴ Often litigants contested the man-made ditches (*acequias*, or the *tomas* cut into them for different owners’ fields) or river from which the water originated or the lands benefitting from the water. The suit between Santa Maria Lachicho and Ulloa Callexas centered around a piece of land called *vega del río* (which roughly translates to “lowlands of the river” or “riverbank”), which probably refers to land within the flood plain of the river.²⁵ Likewise, a 1642 case involving settlers encroaching on the possessions of the Otomí pueblo of Actopan referred to the disputed land interchangeably as “*arroyo seco de Chicavasco*” (or “dry stream of Chicavasco”) “*vega de Chicavasco*,” or “*La Lagunilla*” (or “the Little Lagoon”).²⁶ In a similar case in 1675 involving the city of Tlaxcala, the Tlaxcalans accused settlers of encroaching on their “forests and mountains,” though the focus of their concern is on the settlers drawing water from the streams there.²⁷ Two cases a century apart (a 1587 suit in Guautitlán and a 1694 suit in Tacuba) each focus specifically on a dam and its effect on the flow of water.²⁸ In all of these cases the named focus of dispute is a piece of land or earthwork, but from the complaints and arguments given in the case, the chief concern of all parties involved was access to the water within that land.

Litigants first brought their disputes to the colonial officials in the *cabaceras* or municipal “head towns” of a given region, but they frequently appealed to the *alcaldes mayores*

²⁴ AGNM 26, 68v-69f, 1608.

²⁵ AGEOAM 60.2, 1700.

²⁶ AGNT 1693.2, 1642.

²⁷ AGNT 116.6, 1675.

²⁸ AGNT 2948.39, 1587 and AGNT 2897.10, 1694.

of provincial cities, or even to the *Real Audiencia* in Mexico City. Oral testimony, in which the plaintiff and defendant testified to the merits of their claims and corroborated their story with numerous witness testimonies, played a key role in determining rulings, especially those held in courts far from the site of contestation. As a result, the outcome of the case often came down to which side could bring the most numerous and reputable witnesses to bear. These collections of testimonies revealed an entire network of political alliances and rivalries, familial ties, and local favors or grudges. Courtrooms became spaces of performance, in which plaintiffs and defendants attempted to show their loyalty to the Crown, the damages and suffering they endured, and the amoral or criminal intent of their opponent. The record often features indigenous intermediaries such as nobility or elected officials, who acted as representatives for indigenous communities and helped them combat colonial pressures while simultaneously advancing their personal interests.²⁹ Indigenous communities also used pictographic records, oral histories, and landscape features as evidence, transforming court proceedings into re-creations of their communities' history on the landscape.³⁰

Recently scholars have begun to focus on the strategies used by indigenous communities outside of the courtroom as well. Sonya Lipsett-Rivera reviewed different patterns of resistance employed by indigenous communities in Puebla to retain their access to water for irrigation. She argued that indigenous communities employed active resistance (including theft, sabotage, and rebellion) and passive resistance (i.e., negotiation, slander, work slowdowns, and gossip) in different circumstances, sometimes simultaneously, for different needs. Active resistance increased during the dry season when water was scarce and the need for it was immediate,

²⁹ Yanna Yannakakis, *The Art of Being In-Between: Native Intermediaries, Indian Identity, and Local Rule in Colonial Oaxaca* (Durham: Duke University Press, 2008), 101-10.

³⁰ Ruiz-Medrano, *Mexico's Indigenous Communities*, 92-115.

whereas passive resistance endured during the wetter season to defend existing access.³¹

Georgina Enfield also highlighted the indigenous use of the legal system, especially in Oaxaca.

While acknowledging the seasonality of lawsuits and different forms of resistance, she also argued that threats of rebellions were common while lawsuits were ongoing as a means of applying pressure to the case.³²

Lipsett-Rivera also suggested that social changes gave Spaniards an advantage in water disputes. Although the Spanish controlled the courts, Spanish land law had favored the indigenous communities' "ancient and peaceful possession" of land and water prior to the eighteenth century. However, two phenomena caused a dramatic shift in the status of indigenous landholding. First, European epidemics ravaged the indigenous population, vacating much of the land that had belonged to indigenous farmers. Second, the early colonial policy of forcing scattered indigenous communities into compact *reducciones* or *congregaciones* made it difficult for some farmers to access distant plots that they had traditionally cultivated. In both cases, Hispanic settlers moved quickly to occupy these newly vacated lands and made use of their resources. By the time indigenous populations had rebounded, hacienda owners had developed long-standing claims to resources, and had prepared defenses (such as hiring teams of water guards) to begin monopolizing water access. In other words, hacienda owners began as outsiders in the water management system, but over time they gradually obtained an insider status through compromised claims or land grabs. This undermined indigenous peoples' strongest legal defense to their resources.³³

³¹ Sonya Lipsett-Rivera, "Indigenous Communities and Water Rights in Colonial Puebla: Patterns of Resistance," *The Americas* 48, no. 4 (April 1992): 464-7.

³² Endfield, *Climate and Society in Colonial Mexico*, 106-135.

³³ Sonya Lipsett-Rivera, *To Defend Our Water with the Blood of Our Veins: The Struggle for Resources in Colonial Puebla* (Albuquerque: The University of New Mexico Press, 1999): 77-9.

Lipsett-Rivera and Endfield both linked indigenous defense of water to strong environmental and demographic pressures in the eighteenth century, but by focusing their studies on the later colonial period, they only viewed water struggles once the demand for water had grown acute. A shift in focus to the seventeenth century allows us to historicize these conflicts as they grew more desperate over time, and reveals that intense indigenous defensive action maintained the “peaceful” status quo between Indians and Spaniards. William Taylor has already suggested this in the Oaxaca Valley, where indigenous communities uniquely enjoyed far greater success against Spanish encroachment because of their large, dense population compared to Spanish settlers and the ability of their people and leaders to organize strong, credible legal defenses backed by the threat of violent reprisal.³⁴ Although indigenous persistence was uniquely effective in Oaxaca, a study of water struggles across Central Mexico in the seventeenth century reveals that indigenous communities throughout the colony employed similar tactics with comparable rates of success; in short, the Indians were just as responsible for maintaining the “pax colonial” as the Spanish, and their concerted resistance efforts played a much larger role in their persistent control of resources than their favored status under colonial law.

RESISTANCE

James Scott defined resistance and peasant politics in *Weapons of the Weak*. He argued that acts of resistance go beyond the rare instances of rebellion or insurrection. They also include “the ordinary weapons of relatively powerless groups: foot dragging, dissimulation, desertion, false compliance, pilfering, feigned ignorance, slander, arson, sabotage, and so on.”³⁵ Instances of active resistance are rare. Outright rebellions, in addition to being dangerous for the

³⁴ William B. Taylor, *Landlord and Peasant in Colonial Oaxaca* (Stanford: Stanford University Press, 1972): 107-10.

³⁵ Scott, *Weapons of the Weak*, xvi.

participants, can lead to violent suppression, severe economic consequences, and restrictive, reactionary policy shifts against the interests of the peasantry. Passive resistance, while seemingly inconsequential, can provide immediate individual economic benefits while mitigating reprisals; and while one instance of subversion does little harm to the system of exploitation, a cultural shift towards “everyday forms of resistance” can have major economic consequences over time and even result in favorable policy shifts.³⁶

This pattern plays out in the court documents. Of the cases reviewed, only one chronicles a pueblo taking up arms to defend access to water. Even accusations of theft and sabotage are rare; however, most documents reveal complaints of poverty, starvation, and famine as well as ad hominem attacks against opponents in court, or “defensive” attacks against encroaching livestock. The courtroom was a space in which indigenous plaintiffs and defendants attempted to perform the role of loyal vassals to the Crown, but it was also a public space in which acts of passive resistance could be weaponized. Spanish colonial administrators mediated this space and the interactions within it, but the courts also gave room for indigenous legalisms, traditions, and understandings of the landscape to enter the Spanish legal system.³⁷

Understanding these actions within the realm of peasant politics reveals important continuities in the ongoing fight over land and resources waged by indigenous communities. Yanna Yannakakis has used William Roseberry’s reinterpretation of Antonio Gramsci’s hegemony theory to argue that the use of legal channels by indigenous communities and their intermediaries reinforced colonial hegemonic power; legal disputes and representation by native intermediaries served as a nonviolent and mediated expression of dissent that might otherwise

³⁶ Ibid., 29-33.

³⁷ Ruiz-Medrano, *Mexico’s Indigenous Communities*, 12-24.

manifest in open rebellion. Roseberry's theory acknowledges, however, that consent to hegemony "does not mean the absence of struggle, nor is it static... 'consent' thus coexists with resistance."³⁸ This clarification serves as a reminder that while indigenous communities actively engaged in the colonial legal system and sought means to avoid violent confrontation, they never quietly acquiesced to colonial rule. Instead, lawsuits created alternative spaces for resistance and an opportunity for indigenous litigants to leverage colonial law in their favor. Yannakakis argued that when tensions rose and legal negotiation failed to meet the needs of indigenous people, then rebellion could realign the balance of power. In most cases, indigenous communities rebelled not to overthrow the entire colonial system, but instead used the threat of violence and civil disturbance as a tool of negotiation.³⁹

Ronald Spores argued, contrary to Gramscian theory, that these lawsuits legitimized conflict involving indigenous communities, "provided a forum for its full, dramatic expression, and reemphasized community self-identity." He places "fierce local identities" at the center of legal battles seemingly focused on material possessions like land boundaries.⁴⁰ His analysis of uprisings in seventeenth century Oaxaca showed that when violence occurred, it had usually been instigated by a challenge to local power, such as the jailing of an indigenous official.⁴¹

Peasant politics also transcend easy antagonistic divisions (e.g. colonist versus Indian, rich versus poor, landowner versus tenant, etc.). The household and extended family were the

³⁸ Yannakakis, *The Art of Being In-between*, 25-6.

³⁹ Yannakakis, "Costumbre: A Language of Negotiation in Eighteenth-Century Oaxaca" in *Negotiation within Domination: New Spain's Indian Pueblos Confront the Spanish State*, edited by Susan Kellog and Ethelia Ruiz Medrano (Boulder: University of Colorado Press, 2010): 164-6.

⁴⁰ Ronald Spores, "Differential Response to Control among the Mixtecs and Zapotecs of Oaxaca" in Susan Schroeder et al., *Native Resistance and the Pax Colonial in New Spain* (Lincoln: University of Nebraska Press, 1998):, 45.

⁴¹ *Ibid.*, 40.

most cohesive social units in indigenous peasant society rather than township, ethnicity, or class.⁴² Court documents often referred to the pueblo as a cohesive legal unit, but this could sometimes hide internal divisions. Indigenous elites (known varyingly as *caciques*, *principales*, *gobernadores*, *alcaldes*, *regidores*, etc.) or an appointed Hispanic or mestizo representative (*procurador*) tended to be the only named representatives of the pueblo, masking others like poorer families, servants, women, and children. Occasionally these suits brought indigenous communities and their Spanish neighbors together against a common enemy or pit different indigenous communities against one another. Even if neighboring communities shared linguistic or cultural traditions (and they just as frequently did not), they still viewed themselves as the autonomous and distinct political units they were prior to Spanish contact, and sought to affirm this in the courtroom and in their control of the land and its resources.⁴³ Indigenous resistance, then, was not a broad political or revolutionary movement of “Indians” against the colonial system, or a class-based conflict between peasants and elites; rather, it can be better understood as the actions taken by individual communities to maintain what they saw as their traditional rights and possessions under increasing pressures of rival claims by different colonial subjects.

Finally, peasant politics highlights the agency of indigenous communities to subvert colonial systems of dominance. While studies of hegemony and climatic vulnerability are important contributions to the study of indigenous agrarian communities, they tend to downplay the political nature of peasant action by framing changes at the wrong level. Indigenous agrarian communities were not concerned with colony-wide shifts; rather, they valued their ability to

⁴² William B. Taylor, *Drinking, Homicide, and Rebellion in Colonial Mexican Villages* (Stanford: Stanford University Press, 1979): 2.

⁴³ Spores, “Differential Response to Control,” 45.

thrive in the local economy, control their traditional lands and resources, and assert autonomous communal power over their local affairs.

What I propose here is an expansion of Scott's theories on resistance to encompass more than just clandestine acts against the more powerful. Lawsuits, alliances, and public discourse factor into resistance strategies as well and need to be considered beyond face value. Scott also assumes a static power dynamic, in which peasants were constantly defending against elites. This model does not always hold in New Spain, as indigenous communities had certain advantages that they could exploit not only to defend their own lands, but in some situations even appropriate those of others to expand their holdings. Certain communities had more power than others due to population, connections, or material wealth, while all indigenous communities initially enjoyed the advantage of ancient possession of land over Hispanic settlers.

Lastly, during this period New Spain's racial hierarchy between indigenous peoples and Spaniards was murky at best; Spanish colonists, creole and mestizo settlers, colonial officials, clerics, indigenous elites, and indigenous agrarian communities all competed as vassals of the Crown for power and influence within an uncertain and malleable hierarchy. People labeled as "indios" had certain sumptuary restrictions on clothing, weapons, and riding horses, but some upper-class indios were able to petition for exceptions to these rules. Indigenous communities operated in a different legal and governmental sphere than their Hispanic counterparts, but this just as often worked to their advantage as to their detriment. In practice, local power was decentralized among the various levels of government, as well as between ecclesiastic, legal, private, and communal indigenous authorities. Thus when exploring strategies of resistance in New Spain, each case must be considered within its unique context.

EVIDENCE OF RESISTANCE

The challenge in finding evidence of resistance lies in the structure of the archive itself. Spanish colonial officials had a vested interest in maintaining the guise of a *pax colonial*. Susan Schroeder called this a “fictive peace,” “an artificial construction that served to justify crown and church policies.”⁴⁴ Murdo MacLeod argued that imperial projects do not eliminate war, but merely “displace” it to territorial boundaries. Macleod also pointed to Fanon’s interpretation of colonial violence on the psyche, and suggested that the colonial officials tended to underreport instances of resistance in order to protect their positions. Thus the archives may lack substantive record of overt displays of resistance.⁴⁵ Accusations of violence within a lawsuit may provide the most compelling evidence of peasant resistance outside of large scale rebellions.

A further challenge lies in the nature of Spanish colonial legal documents. As Romero-Frizzi explained:

“the majority of these documents in question are legal in character, encumbered by arcane judicial terminology and short on simple, straightforward description... the densely legalistic nature of the process worked to obfuscate a person’s arguments, burying them under a blanket of incomprehensible legal terms and references, while simultaneously ignoring the fact that anyone who was involved in a judicial process could lie, present false evidence, and call dishonest witness.”⁴⁶

In other words, Romero-Frizzi challenged the assumed presence of truth in Spanish legal documents. The courts were so engaged in fulfilling antiquated legal ritual that they disregarded

⁴⁴ Schroeder et al., *Native Resistance*, xiv.

⁴⁵ Murdo J. MacLeod, “Some Thoughts on the Pax Colonial, Colonial Violence, and Perceptions of Both” in Schroeder et al., *Native Resistance*, 130-8.

⁴⁶ María de los Ángeles Romero-Frizzi, “The Power of the Law: The Construction of Colonial Power in an Indigenous Religion” in *Negotiation within Domination*, 22-3.

the issue of veracity in the proceedings, and what little truth remained could scarcely be extricated from under the weight of heavy legal jargon. In most instances reviewed for this study, it is impossible to determine if a pueblo engaged in sabotage or theft as the hacienda owner claims, or if in fact the pueblo was living in “peace and quietude” as they tried so hard to prove in court. The only evidence was often the conflicting testimonies provided in the record.

For the purposes of this study then, I sidestep the issue of determining the “true” nature of a single event; instead, I view court claims as operating in the realm of plausible discourse. Testimonies, whether true, false, obfuscated, or exaggerated, were not created in a cultural vacuum, but in a space where plausibility and implausibility are historically and culturally constructed concepts. For example, if a hacienda owner claimed that a pueblo killed his livestock, this event probably occurred often enough to be a plausible claim in court. Even if the individual claim exaggerated or falsified information, it reveals that the killing of livestock was a known act of resistance employed by indigenous communities at the time.

Court documents revealed three major kinds of resistance: legal defenses, rhetorical strategies, and extralegal actions. Indigenous communities and their legal representatives often emphasized aspects of the legal code that played into their favor. Providing documented evidence was ideal, but they also often emphasized that they held possession of the land since “time immemorable,” which was legal parlance for *de facto* ownership. They also typically referenced their legal status as “*miserables*,” or people who have a right to the Crown’s protection and exemption from legal fees. This was especially important when the land or water in question was necessary for paying royal tribute.

Capitalizing on the courtroom as a space of public discourse, indigenous plaintiffs and defendants actively shaped the rhetoric surrounding a dispute through charged language in their

testimonies. They frequently emphasized their “quiet and peaceful” ownership of the resource, which was an important rebuttal to the common claim that Indians’ actions were motivated by “inquietude and restlessness.” They also emphasized their *miserable* status (as well as their legal and ethnic position as *indios* within the viceroyalty) through references to poverty, famine, and starvation. Indigenous testators even engaged in ad hominem attacks against their opponents. When gathering testimonies, indigenous communities sought out their Spanish neighbors or members of the clergy to bolster their arguments; a mix of testimonies from people of different backgrounds and motives was stronger than a homogenous sampling from within their own ranks.

Finally, in rare cases the court records reveal strategies practiced by indigenous communities outside the courtroom. These accounts mostly come from their opponents seeking to paint the pueblo as violent and restless. The most common accusation is, unsurprisingly, the theft of the water itself, often through an unauthorized irrigation ditch or wooden aqueduct. Opponents of the pueblos also accused them of such intimidation tactics as the killing of livestock, damaging property, harassing slaves and servants, or threatening overt armed rebellion. There is also evidence to suggest more surreptitious tactics, such as beseeching the colonial government to grant them protection of land and resources already in use by others.

The actions taken by the pueblo Santa Maria Lachicho were highly uncommon, and thus stand out in the historical record. Indigenous communities usually used much subtler forms of resistance to maintain access to their water resources. The dispute began through legal channels, deploying standard legal tropes. As the dispute continued, the rhetoric heightened, and the use of direct action became more frequent. This pueblo’s struggle revealed the full range of strategies

that indigenous communities employed and the latent potential of all peasant communities to leverage power through the threat of violence to defend their resources.

LEGAL STATUS AND DEFENSE

Ulloa Callexas submitted his initial complaint to the *alcalde ordinario* of Antequera Don Juan de Salazar Ollen. He accused the indigenous residents of Santa Maria Lachicho of seizing land on his hacienda he called *vega del río*, planting corn there, and illegally drawing water for their crops. He also accused them of “repeatedly stealing cattle... and killing them with guns, arms which are prohibited [to them as Indians].” Two of his neighbors and one of his slaves testified as witnesses to these crimes and confirmed the truth of his story, and he called for criminal charges to be brought against the village.

While it is difficult to pinpoint the exact locations of either the hacienda or the pueblo, the documents do offer some clues about their place within the legal jurisdictions of Oaxaca. Both are said to be in Zimatlán, the southern and most fertile arm of the tripartite Oaxaca Valley. Zimatlán was formed by the Río Atoyac, which remains the primary source of irrigable water for the valley; most cropland in the valley is clustered around the banks of this river. Based on the order of events and presiding officials in this case, it appears that Zimatlán fell under the jurisdiction of the *alcalde* of the city of Antequera, the provincial capital of Oaxaca. Antequera was also the seat of an appointed *provision* who also presided over disputes. Santa Maria Lachicho had its own governing council of *regidores* and an *aguacil* who represented the town in these disputes. The notary who transcribed this case occasionally referred to them generally as *caciques* of the pueblo.

Salazar Ollen immediately appointed a prosecutor to investigate the matter as well as a defense attorney for the village, whom he sent to the village to inform them of the proceedings.

On May 10th, 1698, with the help of a *ladino* interpreter, the leaders of the village heard the charges brought against them and consented to the investigation. Ulloa Callexas presented testimonies from his neighbors affirming his “just and legitimate titles and compositions with His Majesty” and his “actual, civil, and naturally peaceful and quiet possession” of the land and water. These arguments reflected the legal requirements of Spanish landholding in New Spain, as well as Spanish conceptions of what it meant to own land and resources. The indigenous leaders of Santa Maria Lachicho constructed arguments that hinged on definitions of legal status, traditional and *de facto* usage, and need. These arguments showed a keen understanding of the law, but also revealed Mesoamerican understandings of communal autonomy, the power of indigenous elites, and hierarchies based on reciprocity.⁴⁷

In response to Ulloa Callexas, the indigenous leaders Matias Garcia, Simon Garcia, Domingo Garcia, and Cristobal Garcia testified that “we have our lands, borders, boundary markers, and paintings of our ancestors that they made and painted to protect our lands and borders, and that when that hacienda of Don Juan de Callexas was made we were already possessing our lands and borders.” They further argued that “we have crops of nopal [cactus] and chilis, and it is where we also [grow crops] to pay tribute to his Majesty and to sustain our children and wives.” They counterclaimed that their crops were “all destroyed by his [Ulloa Callexas] cattle... and every day the master and his ranchers try to force us from our lands... he threatens to bring us injured to the jail in Zimatlán... he wants to remove us from our lands that since time immemorable we have had to protect.” They asked for a mandate protecting their lands “and that the said master does not perturb us nor remove us from our possession and lands that our ancestors cultivated, the same possession that we are... paying Royal Tribute to his

⁴⁷ AGEOAM 60.2, 1700.

Majesty.”⁴⁸ This dense and rich contradiction of Ulloa Callexas’ claims was constructed with a deep understanding of colonial land and resource law and the legal status of indigenous subjects of New Spain. The *principales* of Santa Maria Lachicho, like many other indigenous litigants, leveraged their status as legal minors, touted their traditional holding of their resources, and referenced documented title to them.

The legal status of indigenous peoples in the Spanish Empire was critical to establishing a stable colonial order. The famous debates in Valladolid between Bartolomé de las Casas and Juan Ginés de Sepúlveda in 1550-51 convinced the Spanish court that the indigenous peoples of the Americas

were not beasts, not slaves by nature, not childlike creatures with a limited or static understanding, but men capable of becoming Christians, who had every right to enjoy their property, political liberty, and human dignity, who should be incorporated into the Spanish and Christian civilization rather than enslaved or destroyed.⁴⁹

In order to protect Indians against opportunistic Spanish colonists as they transitioned into the colonial system, the Crown designated Indians as *miserables*, or legal minors, a status originating in medieval Castilian law. This status had originally applied only to individuals (such as children, the elderly, infirm, and widows) who lacked protection and thus fell under the protection of the Crown. The indigenous people of the Americas were the first group of people that Spain categorically classified as *miserable* from birth. *Miserables* were “entitled to certain privileges at law – speedy trials, free legal counsel, diminished responsibility for truth telling, choice of judges under certain circumstances, [and] lesser punishments.”⁵⁰

⁴⁸ AGEOAM 60.2, 1700.

⁴⁹ Lewis Hanke, *The Spanish Struggle for Justice in the Conquest of America* (Dallas: Southern Methodist University Press, 2002): 131-2.

⁵⁰ Brian P. Owensby, *Empire of Law and Indian Justice*, 56.

Despite its advantages, the *miserable* status also brought numerous disadvantages as well. Indians could not represent themselves in court, but instead paid an annual tax of a *media real* to cover the cost of court-appointed representation. Indigenous communities often organized communal funds to pay this fee.⁵¹ This exposed them to the colonial bureaucracy, however, which was rife with agents who sought bribes, advanced their own personal interests, or treated their indigenous clients with paternalistic dismissal.⁵² Thus, they often still hired expensive private representatives (*procuradores*) to improve their odds of success.⁵³ Most importantly for indigenous litigants, however, the status of *miserable* granted access to the writ of royal *amparo*, or protection. *Amparos* gave the holder legal protection to their property for the duration of the lawsuit. Thus, the pueblo had time to collect evidence and mount a legal defense without losing their precious resources, and the trial would take place in their own jurisdiction.⁵⁴ In return, indigenous communities were expected to pay annual tribute directly to the crown, usually taken as a percentage of whatever they had produced that year.

Indigenous litigants eagerly cited this status despite its paternalistic overtones and frequently sought *amparos*. Although usually given for land, communities also sought *amparos* for their access to water. In a 1646 suit filed by an *hacendado* against the Otomí pueblo of Actopan over lands near an *arroyo*, the *procurador* Augustin Francisco emphasized the pueblo's status as "defenseless" against the "vexations and molestations of their neighbors" and cited an *amparo* granted to them two years prior. Francisco also explicitly referenced the "protection and

⁵¹ Woodrow Borah, *Justice by Insurance: The General Indian Court of Colonial Mexico and the Legal Aides of the Half-Real* (Berkeley: University of California Press, 1983): 86-93.

⁵² *Ibid.*, 227-308.

⁵³ *Ibid.*, 128-226.

⁵⁴ Owensby, *Empire of Law*, 51-8.

defense made on many occasions... for the security of the collection of royal tribute.”⁵⁵ In 1718, the pueblo of San Juan Bautista Apasco also asked for an *amparo* during a suit they filed against an *hacendado* they accused of stealing their water.⁵⁶

The *principales* of Santa Maria Lachicho, in the case under detailed review here, asked for an *amparo* and expressed a nuanced understanding of its legal implications. After receiving notice of their eviction, they said that they understood the notice but would not leave the lowlands until they had gone to the city to present their evidence; if the court there ruled against them, they would leave peacefully, but not before. They made certain to mention that the irrigated lands in dispute were necessary for the payment of tribute.⁵⁷ They also argued that they had held the land and used its resources “from time immemorable,” and referenced ancient boundary markers and paintings made by their ancestors:

We have our lands, borders, boundary markers, and paintings of our ancestors that they made and painted to protect our lands and borders, and that when that hacienda of Don Juan de Callexas was made we were already in possession of our lands and borders.⁵⁸

When neither party could establish documented title to the water, the courts usually awarded possession of water to whoever had held the longest *posesión 26rovisi*, or the oldest continuous and current use of the water source.⁵⁹ Settled indigenous communities tended to have an advantage over colonists in this regard, and they clearly sought to establish their traditional use as a given fact early in the proceedings. Indigenous communities frequently argued that they had used the disputed water “since time immemorable,” and sought out evidence to prove it. In 1587

⁵⁵ AGNT 1693.2, 1642.

⁵⁶ AGNT 2985.141, 1718.

⁵⁷ AGEAM 60.2, 1700.

⁵⁸ AGEAM 60.2, 1700.

⁵⁹ Taylor, “Land and Water Rights in New Spain,” 202.

the pueblo of Guautitlán justified their request for an *amparo* protecting their access to a dammed stream by saying they held possession of the water “from time immemorable, before the arrival of the Spanish” before turning to their need for the water for tribute.⁶⁰ In 1655, the pueblo of Achichihuacan sought an *amparo* for their access to a watercourse that was fed by the Huilango River that they had used “from time immemorable.”⁶¹

Where possible, communities sought to reinforce this claim through testimonies. The Otomí of Actopan managed to gather various testimonies from within the pueblo as well as two from Indians from outside the pueblo, two of their Spanish neighbors, and one each from a Franciscan and Augustinian friar who both served the area. They all testified that the pueblo held the lowlands of Chicavasco for between twenty and forty years, with the Indian Alonso claiming that they had held it “from their gentility.”⁶²

Colonial officials valued documents proving possession of water over other evidence, though the actual documents that communities presented varied. In a 1694 suit between Tultitlan and Felix Vela del Castillo over water for irrigation, the governor of the pueblo cited his community’s grant to “fourteen parts of water” for irrigation, drinking, and for the religious convent in their village.⁶³ Communities also referred back to previous court rulings. The governor of Achichihuacan, for example, cited a previous 1616 ruling in a dispute between his pueblo and those of Quaquechula and Quilango. The court ordered the latter two to cease taking water from the Huilango River on the grounds that they were impinging on Achichihuacan’s

⁶⁰ AGNT 2948.39, 1587.

⁶¹ AGNT 104.7, 1655.

⁶² AGNT 1693.2, 1642-51.

⁶³ AGNT 2897.10, 1694.

ability to draw their water, and the governor used this as evidence of their legally recognized traditional access to water.⁶⁴

Documented proof of possession was important enough that some defendants testified to having legal title even if they could not provide written proof. The leaders of Santa Maria Lachicho claimed to have both “paintings of our ancestors that they made and painted to protect our lands and borders” as well as papers which proved their legal title to land. They claimed to have shown them to a Don Luis de Torres in 1662, though there is no evidence that they produced them again for this suit.⁶⁵

In another Oaxacan case in 1683, the vecinos of Antequera complained to the *28rovision28* that the pueblo of San Felipe was taking excessive water upstream. The *regidor* of the pueblo argued that he had a *merced de agua* dating from July 4, 1679. He further claimed that several of his neighbors could confirm his possession of said documents without presenting them to the *28rovision28*.⁶⁶

Indigenous communities often submitted ancestral paintings, including genealogies, maps, and plans, as viable evidence in court cases to show traditional access to land or resources. Indigenous communities produced these codices and *lienzos* painted on cloth to document their occupation of the land. They were highly treasured possessions of the communities, mapping narrative elements (such as battles, migrations, or other important historical events) and combining the spatial and temporal to show not just what was important, but why. *The Lienzo de Quauquechollan* is one of the most complete extant examples. It recounts the tale of the Nahuas

⁶⁴ AGNT 104.7, 1655.

⁶⁵ AGEAM 60.2, 1700.

⁶⁶ AGEAM 5.1, 1683.

who allied themselves with conquistador Pedro de Alvarado in the conquest of Guatemala. It includes prominent battles and other events in the context of geographic features like rivers, roads, mountains, and towns. *Lienzos* like these would display martial success and reaffirm the warrior identity of the communities that produced them.⁶⁷ Painted genealogies of nobility like the Mixtec Codex Huamelulpan held a similar reverence.⁶⁸ Like the *lienzos*, these documents featured historical events and their geographic settings. The nobility, and the pueblo by extension, formed their identity and power within the landscape.

Ruiz-Medrano also reviewed a number of “false” titles, in which communities, worried about their legal claim to land they possessed as their neighbors began encroaching, commissioned paintings describing their ancestral lands and resources. Occasionally communities tried to “age” the paintings artificially to make them look pre-colonial.⁶⁹ Romero-Frizzi described a frenzied rush to complete these in sixteenth century Oaxaca while village elders and skilled *tlacuilos* (indigenous painters) still lived to remember and record their ancestral lands and the events that took place on them. This became even more critical with the onset of epidemic diseases.⁷⁰

Regardless of their antiquity, all these painted documents could be brought forward as evidence in court, representing the value the land had to these indigenous communities. Of the documents reviewed for this study, only one contained a copy of a “false” title. In 1616 Jorge de Resa, an *hacendado* in Malinalco, sent a request to the *alcalde mayor* to build ditches running

⁶⁷ Florine Asselbergs, *Conquered Conquistadors: The Lienzo de Quauquechollan: A Nahua Vision of the Conquest of Guatemala* (Boulder: University Press of Colorado, 2004): 137-201.

⁶⁸ Codex Tulane (Codex Huamelulpan), 1802, Call Number F1219, LAL Rare Book Collection, Tulane University Latin American Library, New Orleans, LA, USA.

⁶⁹ Ruiz Medrano, *Mexico's Indigenous Communities*, 96.

⁷⁰ Romero-Frizzi, *El sol y la cruz*, 110-1.

from the Tecomatlan river to irrigate his fields. The indigenous villages San Bartolome, Santiago, and San Jeronimo all claimed that such an act would disrupt their water access and provided as evidence a colorful painting of the river valley and how the villages were situated within it. The *alcalde mayor* ruled in their favor, but whether or not the map played a significant role in this decision is unclear. Not only had the three villages allied to fight off the encroacher; several of their Hispanic neighbors had come forward as well.⁷¹ Such alliance building will be discussed in more detail in the next section. In most cases however, villages could not afford to copy these paintings to leave with the court, so most court records merely make mention of the judging body having reviewed the painting.

Communities often lovingly displayed and protected these documents in town halls; moving them would subject them to the dangers of damage, theft or loss. Furthermore, the clergy had historically targeted these codices as evidence of idolatry and routinely destroyed them, especially if they had been created prior to the arrival of the Spanish. Occasionally documents of possession provided by the colonial government were treated with the same reverence as these codices, given the practical and social importance placed on them.⁷² It is not unreasonable, therefore, to imagine that a pueblo might claim and provide testimony to these documents without wanting to carry them the distance to the court, especially if that court was in a faraway *cabecera* or the Real Audiencia in Mexico City.

Communities submitted genealogies to prove that a noble family had held dominion over the disputed territory for generations, and that their pueblo occupied and used the land. Through their role as intermediaries, the nobility validated communal land holdings. Likewise, *lienzos*

⁷¹ AGNT 2736.1, 1616.

⁷² Ruiz-Medrano, *Mexico's Indigenous Communities*, 96-8.

would show evidence that they held the lands where they had eventually settled since time immemorable or had “rightfully” conquered them under the banner of the Catholic Spanish monarch. Thus, the lands that they held were legitimate spoils of war for Christians who had fought on behalf of the king.⁷³ The use of indigenous art, literature, and history as legal evidence in colonial courts transformed the process and meaning of land disputes. The presentation of narrative maps, paintings, and genealogies in the public sphere of the courtroom was important not just for the physical retention of lands, but also for the ritual reaffirmation of the communities’ histories. Retelling the history of the pueblo brought the community together and legitimized their ancestral ties to the landscape.⁷⁴

When documents were lacking or conflicting on both sides of a dispute, the arbiter often ordered a survey to determine either the best geographic claim to the water or to an equitable distribution that would satisfy both parties. This was especially true before the institution of *composición* in 1591; until the colonial government required landowners to possess title documents, surveys were the primary means of collecting evidence for land or resource disputes. Even after *composición*, surveys (or *vistas de ojos*) remained the primary way of determining possession and use of land resources.

In 1587, the village leaders of Acatzingo in Puebla requested an increase in water shares, claiming that they were in desperate need since they completed construction of a monastery. The town council in the neighboring city of Tepeaca in turn submitted claims that they could not spare any loss of water to the village. The presiding judge in Atlixco ordered both a survey of the source and course of the water supply to both communities, as well as a census to establish their

⁷³ Asselbergs, *Conquered Conquistadors*, 137-201.

⁷⁴ Ruiz-Medrano, *Mexico’s Indigenous Communities*, 113-5.

respective populations. Based on the results of this inquiry, he ordered that the two indigenous communities alternate access, with Tepeaca receiving two weeks and Acatzingo receiving one week at a time.⁷⁵

In our Zimatlan case, Ulloa Callexas argued that the lowlands they were cultivating were not contiguous with their village lands; they had to walk “three leagues” just to get to the river. Phelipe de Gamboa, a colonial official, confirmed this by traveling to the land and surveying it; it appeared to him that the lowlands were indeed contiguous with Ulloa Callexas’, and the Indians were “annexing” it for their own planting. When handed their eviction notice, however, the indigenous leaders politely refused to leave, stating that they had evidence that supported their claim to the lowlands and would not budge until they had aired their appeals in court.⁷⁶

Gamboa was lucky that the residents of Santa Maria Lachicho allowed him to conduct his survey in peace. William Taylor noted a dozen documented cases from 1692 to 1796 in which indigenous communities in Oaxaca “assumed that a vista de ojos would mean a loss of land.” To protect their interests, these villages tried to intimidate surveyors with mass demonstrations, sabotage the survey by stealing the measuring rope, or throwing rocks at the surveyor to drive them away.⁷⁷ Perhaps the leaders of Santa Maria Lachicho thought it best for their case to remain as docile and cooperative as possible until all legal avenues had been exhausted.

It is difficult to tell who owned the lowlands in this case. Ulloa Callexas brought multiple testimonies on his behalf to the court, but there is no indication that he ever provided documented proof of ownership; neither did the *principales* of Santa Maria Lachicho. The survey

⁷⁵ AGNT 1907.1, 1587.

⁷⁶ AGEOAM 60.2, 1700.

⁷⁷ Taylor, *Landlord and Peasant*, 84-5.

would seem to indicate that the lowlands were closer to Ulloa Callexas' hacienda and that village was indeed some distance away. However, land possession and grants, especially those belonging to communal peasant villages, were rarely contiguous, but were composed of a smattering of small dispersed fields. People identified their lands by common landmarks and boundaries, such as hills, trees, ditches, roads, and rivers.⁷⁸ Thus it is entirely possible that although the lowlands were not contiguous with the other lands of Santa Maria Lachicho, they did indeed hold traditional access to them.⁷⁹

The skill with which indigenous peasants and elites and their representatives utilized legal codes and parlance in court suggests intimate knowledge of Spanish land law. Indigenous peoples across central Mexico had pre-Hispanic legal traditions.⁸⁰ However, the uniformity of the language in the documents and the patterns of common strategies employed across different indigenous communities and language groups suggests that indigenous communities understood enough of the Spanish legal code to know the importance of providing documented proof (or asserted the existence of such), gathering testimonies from witnesses that expressed a variety of backgrounds, and referring to previous rulings. They also knew that requesting *amparos*, emphasizing the water's importance to tribute, and showing their *de facto* possession could improve their odds of success. When possible, indigenous litigants and their representatives established these facts early and repeated them often, layering multiple claims to their resource in a single passage. For example, as part of a lawsuit in Izucar, Puebla in 1666, the leaders of the

⁷⁸ James Lockhart, *The Nahuas After Conquest: A Social and Cultural History of the Indians of Central Mexico, Sixteenth Through Eighteenth Centuries* (Stanford: Stanford University Press, 1992): 142-52.

⁷⁹ AGEOAM 60.2, 1700.

⁸⁰ Ruiz-Medrano, *Mexico's Indigenous Communities*, 12-6.

pueblo of Chalma testified to having had access “since their gentility” to a water course that ran through their village, and went on to describe the water course in great geographic detail:

for their part they held since their gentility three *ojos* of water that originated at the foot of the hill called Tlapanltecal in the said jurisdiction, and were the said *ojos* of Teotlichichicalco that by another name was called Teoapa and Talpaltico... They have always used it [the watercourse] in the fields in their villages, watering their crops and vegetables for their sustenance and the payment of Royal Tribute, and after their use it [the water] runs into the Jalatlaco river, in which many people in the said villages have had the water running to their ditches for watering their fields... They have had approval in their having possession and been granted protection by *real 34rovision* since the date of thirty days of the month of August in the year 1586.⁸¹

In this short passage, the leaders of Chalma established their ancient possession to the land, proved it with their intimate knowledge of the watercourses and their use, referred to a previous *amparo* giving them use of the water, and expressed their need for the water to survive and pay tribute. These strategies likely came from their own legal representation, as well as the oral transmission of stories of success and failure by other communities in previous cases.

Romero-Frizzi argued that indigenous communities did not engage with the colonial legal system out of a desire for justice in the abstract, but only because it might gain them an edge over their current rival. She saw this gradually weakening the importance of indigenous legal systems and allowing the colonial government to exercise control in regions where they had little coercive power.⁸² However, legal action is only part of a continuum of resistance that includes public discourse and extralegal action. In the seventeenth century, indigenous communities used lawsuits with a range of other social tools to exert the fullest extent of their power not only on their rivals, but also to secure their place within colonial society.

⁸¹ AGNT 109.1, 1666.

⁸² Romero-Frizzi, “The Power of Law” in *Negotiation within Domination*, 127.

PERFORMANCES OF LOYALTY AND VICTIMHOOD

When Ulloa Callexas brought suit against the indigenous residents of Santa Maria Lachicho for occupying and planting on the river-fed lowlands he claimed, he accused his opponents of having a “natural restlessness and tendency for tumult,” employing a common trope among colonists that Indians were violent, lazy, and untrustworthy. He contrasted this image with himself: he claimed to have “actual, civil, and naturally peaceful and quiet possession of the lands” through “just and legitimate titles and compositions with His Majesty,” mirroring the language of legal requirements of land possession and resource use. Indigenous litigants worked diligently to flip this narrative. The leaders of Santa Maria Lachicho, for their part, claimed that they held peaceful and nonviolent possession of the land, and claimed that Ulloa Callexas was lying, and wanted to take their land “without title or reason” and “impede their planting.”⁸³

The importance of testimonies in colonial court proceedings cannot be overstated, but the rhetoric used in this case suggests a “hidden transcript” like those suggested by James Scott.⁸⁴ Witnesses gave testimony under oath before both the judicial body and an open audience. Professional notaries transcribed these testimonies verbatim into court records. It was not unusual for entire communities to pack the court to hear verdicts, as did the *hacendados* and their

⁸³ AGEOAM, 60.2, 1700.

⁸⁴ James Scott, *Domination and the Arts of Resistance: Hidden Transcripts* (New Haven: Yale University Press, 1990).

neighbors.⁸⁵ With the entire community witnessing the proceedings, the testimony became a medium of performance through which those who testified could display their loyalty to the crown, their peaceful habitation, and their victimization by their opponents, whom they painted as criminal and vindictive. The record often features indigenous intermediaries such as nobility or elected officials, who were able to act as representatives for indigenous communities and help them combat colonial pressures while simultaneously advancing their personal interests.⁸⁶ They did so with existing public discourses in mind, and with the aim of reshaping such discourses, at least for the purposes of their cases. In the process of defending highly local claims, they thus utilized empire-wide discourses about the nature of colonialism and the motives of the actors involved for the purposes of local power struggles.

Often communities began by referencing their loyalty to the king. This was common boilerplate in many legal testimonies, but some communities had better claim to that loyalty than others. In 1674 the governor of Tlaxcala Don Diego Martin Falestino filed suit against Spanish settlers taking water from the river feeding into the city. The Tlaxcalans had long enjoyed a unique status in New Spain because they had been recognized as the primary allies of Hernán Cortés in his war against the Mexica to conquer central Mexico.⁸⁷ In 1535, Charles V legally deemed Tlaxcala a *ciudad* (giving it the right to have a governing council answerable directly to the Viceroy and administrative control over local villages) and granted it a coat of arms.⁸⁸ Over one hundred and fifty years after the 1521 conquest, the Tlaxcalan lords still cited their

⁸⁵ Ruiz-Medrano, *Mexico's Indigenous Communities*, 37.

⁸⁶ Yanna Yannakakis, *The Art of Being In-Between: Native Intermediaries, Indian Identity, and Local Rule in Colonial Oaxaca* (Durham: Duke University Press, 2008), 101-10.

⁸⁷ R. Jovita Baber, "Empire, Indians, and the Negotiation for the Status of City in Tlaxcala, 1521-1550" in *Negotiation within Domination*, 22-3.

⁸⁸ *Ibid.*, 30.

allegiance to the king and the positions granted to them because of the “great services that our ancestors made... in the conquest of this kingdom accompanied by Don Fernando Cortes.” They leveraged this special status alongside a 1585 *amparo* granted to the city to argue effectively that their water rights deserved protection.⁸⁹ Their status as a *ciudad* gave Tlaxcalans a dominant position over Spanish settlers within their domain, but they still relied on displays of loyalty to keep the city in the Crown’s good graces. In fact, the city’s full title was *La Leal Ciudad de Tlaxcala* (The Loyal City of Tlaxcala).⁹⁰

Communities could also boost their image in court by showing how well integrated they were in the colonial society by calling upon their Spanish neighbors to testify on their behalf. In the 1616 Malinalco case discussed previously, the indigenous pueblos of San Bartolome, Santiago, and San Jeronimo, as well as the *hacendados* Pedro Poncé de Leon, Ines de Sayas, and Juan Andres Casa Fuerte, all affirmed their rights and traditional access to water from the Tecomatlan river to prevent Jorge de Resa from building more irrigation ditches off the river. After reviewing the testimonies (and the false title mentioned previously) the *alcalde mayor* denied Jorge de Resa’s request.⁹¹ This concerted and unified effort shows that the pueblos and their Spanish neighbors coordinated a united front against an encroaching newcomer who threatened the status quo. As previously discussed, Actopan was also able to gather multiple testimonies from Spanish private landholders and priests.⁹² This made a clear case to the colonial officials that the pueblo was not simply trying to take advantage of the court to grab land or

⁸⁹ AGNT 116.6, 1674.

⁹⁰ Baber, “Empires, Indians, and the Negotiation for the Status of City” in *Negotiation within Domination*, 30.

⁹¹ AGNT 2736.1, 1616.

⁹² AGNT 1693.2, 1642.

resources, as multiple parties with varying interests all told a consistent story on behalf of the pueblo.

The colonial government sought as its primary goal for the distribution and redistribution of water rights “to avoid all damages and inconveniences... and to conserve the friendship and neighborliness of the people and households and maintain peace.”⁹³ Thus by showing that their possession of water or request for *amparo* was uncontroversial among their Spanish neighbors, indigenous communities increased their chances of success by showing that they were conforming to the ideal of peaceful, loyal subjects of the crown. Likewise, indigenous plaintiffs could improve their odds if they could show common cause with their Spanish neighbors against an opponent.

Behind these official distributions of water lay a network of deals, agreements, and understandings between *hacendados*, indigenous communities, cities and towns, religious convents, and owners of water-powered mills. This status quo shifted and changed through verbal deals or by more direct action. Occasionally the documents explicitly reveal these arrangements.⁹⁴ The 1666 Izucar case quoted in the previous section is a perfect example. The pueblo of Chalma worked with the *hacendado* Captain Don Juan de Suasnavar y Aguirre to accuse their neighbor Doña Theresa Perez Delgado of “violently stealing water” by breaking open their irrigation ditches to water her own fields and power her mill. In their testimonies both the indigenous leaders and the *hacendado* they described how after a severe population decline, the community had moved to land bordering Suasnavar y Aguirre’s *hacienda* in Tepeyaca. The *hacendado* agreed to finance their construction and cleaning of ditches to water their fields in

⁹³ AGNT 2787.7, 1608.

⁹⁴ Murphey, *Irrigation in the Bajío*, 25-32.

exchange for their help in building ditches onto his fields. As a result, the pueblo and the *hacendado* shared water access and could support each other in defending their claim from encroachers.⁹⁵

In 1733, the *hacendado* Don Pedro Joseph García asked for a *merced de agua* from the Aroyaque river. He received this grant on the stipulation that he pay fifteen pesos a year to the pueblo of Nuestra Señora de Guadalupe, as his drawing would impact theirs. The *principales* of the pueblo agreed to these conditions, as did the *principales* of the pueblos Santiago and San Augustin.⁹⁶ In Tlaxcala in 1697, Miguel Hernández petitioned for permission to build a flour mill powered by a stream used by the residents of San Matías Tepetomatitlán to drink, irrigate their fields, and wash wool. The *alcalde mayor* of Tlaxcala granted his request but stipulated that he pay six pesos annually to the village for the use of their water. This arrangement must have been agreeable to both parties, as it persisted well into the nineteenth century.⁹⁷

These cases point to the early stages of a trend, described by Murphy in the Bajío and Lipsett-Rivera in Puebla, of *hacendados* accumulating water shares, consolidating them into monopolies, and then leasing them out to surrounding tenant farmers. This happened quickly in the Bajío, in which the indigenous population was sparse and mostly semi-nomadic. A notable exception was the valley of Querétaro, in which land and water consolidated quickly into large haciendas and the distribution of water came to be regulated by the regional colonial government by the seventeenth century.⁹⁸ In Puebla, Lipsett-Rivera argued that the Spanish accumulated water shares through a process of aggressive attrition using violence and intimidation; by the

⁹⁵ AGNT 109.1, 1666.

⁹⁶ AGEOAM 49.1, 1733.

⁹⁷ AGNT 2699.5, 1697.

⁹⁸ Murphy, *Irrigation in the Bajío*, 201.

eighteenth century, *hacendados* had consolidated their shares into monopolies, forcing indigenous farmers either to rent their shares or acquire water through more confrontational means.⁹⁹ The Tlaxcalans, with their powerful elites and privileges inherited from their conquistador ancestors, showed one of the few examples of a cluster of indigenous communities who rented shares to a Hispanic settler.¹⁰⁰ This evidence suggests a more complicated narrative than those of Murphy and Lipsett-Rivera: throughout the Central Highlands, pueblos negotiated with their Hispanic neighbors over water access, buying and selling shares as needed outside of the legal theater of the courts.

These water disputes could also uncover old grudges or personal vendettas. The previously mentioned 1683 Oaxacan case between the city of Antequera and the indigenous pueblo of San Felipe began as a complaint from Dr. Don Gonzalo Domínguez Guerra, Dean of the Santa Iglesia Cathedral in Antequera, who claimed that the pueblo's diversion was causing "damage to the public good." The *regidor* of the pueblo, Don Joseph Delgado y Arteaga, claimed that he believed his neighbors harbored ill will towards him and had encouraged the Dean to speak out against him.¹⁰¹ He even went as far as to name certain individuals within the council of Antequera as his critics and asked that they recuse themselves from the case. The critics refused to recuse themselves, and the dispute erupted into a battle of water access between the pueblo and the city.¹⁰² Disputes over resources could be the only visible expression of a much deeper

⁹⁹ Lipsett-Rivera, *To Defend Our Water*, 79-85.

¹⁰⁰ AGNT 2699.5, 1697.

¹⁰¹ Whether or not Don Joseph Delgado was indigenous is unclear. With his title and power, he may have been of the indigenous nobility, which remained powerful in Oaxaca well into the nineteenth century (Taylor 1972). If he was *mestizo* or *criollo*, then his position as the *regidor* of an indigenous pueblo still put him in the position of representing indigenous interests.

¹⁰² AGEOAM 5.1, 1683.

and more personal political conflict. It is possible that all the parties involved in a dispute knew each other well before issues made their way to court, and that previous interactions and sentiments colored their view of events.

It was also vital for indigenous communities to portray themselves as helpless victims of encroachers because of the requirement that land grants not impinge upon indigenous communities or any third party. Communities referenced the damages that they suffered because of their opponent's actions, or the damages they would suffer if their opponents were granted the water they requested. Often these claims were more of a performance than a statement of fact; even in cases where it seems that the pueblos were the encroachers, they still tried to portray themselves as "miserable" victims in need of royal intervention.

In 1683, the Tlaxcalan governor not only claimed that the colonists were settling in their forests and taking their water "without title or right," but that their actions were "damaging to the natives" of the city and its surroundings.¹⁰³ In 1694, the governor of Tultitlan claimed that Don Felix Vela de Castillo's dam diverted too much water from the Guautitlán river. It prevented his pueblo from being able to take the "fourteen parts of water" granted to them by the Real Audiencia, and warned that "for the said pueblo, in such tight times as the present, that they are losing their crops for lack of watering" and that "it is necessary for the priests to come." It is unclear what the arrival of the priests was supposed to mean; possibly it referred to there being a number of sick and starving people in the village who needed the services of a priest for medical attention or the reading of last rites.¹⁰⁴

¹⁰³ Ibid.

¹⁰⁴ AGNT 2897.10, 1694.

In a comparable argument, Santa Maria Lachicho's leaders catalogued the variety of crops that they produced, including chiles, maize, and nopal cactus. They claimed that in his attempts to evict them, Ulloa Callexas had damaged their *nopales*, and that they needed the crops they grew on the lowlands to feed their families.¹⁰⁵ When damages had not yet occurred, indigenous communities warned of the consequences of changes to water policy. In the 1683 suit between Antequera and San Felipe, the *regidor* Don Joseph Delgado claimed that his village needed all the water that they were taking to produce the scarce amount of wheat that they were able to sow and harvest.¹⁰⁶ The implication was that if San Felipe lost the case, it could face crop loss and starvation. Such a situation may have also forced them to default on their tribute payments.

Once the communities had established their loyalty, peacefulness, and victimhood, they attempted to paint their opponents as exactly the opposite: greedy, abusing, and dishonest. When the residents of Santa Maria Lachicho claimed Ulloa Callexas wanted their lowlands "without title or reason," they were repeating a common complaint against Spanish encroachers and reinforcing stereotypes about secular Spanish colonists promulgated in Spain by advocates like Las Casas.¹⁰⁷ In 1718, the *principal* of San Juan Bautista Apasco accused the *hacendado* Don Joseph de Estrada y Campa of "violently stealing water via a separate channel." He even went as far as to outright call him a "thief."¹⁰⁸ In the 1694 case between Tultitlan and Felix Vela del Castillo, the governor of the pueblo not only attacked the *hacendado* for taking water without a

¹⁰⁵ AGEOAM 60.2, 1700.

¹⁰⁶ AGEOAM 5.1, 1683.

¹⁰⁷ AGEOAM 60.2, 1700.

¹⁰⁸ AGNT 2985.141, 1718.

merced, but also accused the *contador* of Tacuba Manuel de Tobar of distributing shares of water to himself, abusing his office.¹⁰⁹

James Scott delved deeply into public discourse in colonial and slave societies, and the ways that subordinate classes obscure their animosity towards the powerful by overtly professing loyalty. He entitled the obscured language “hidden transcripts” and developed theories about how subordinate classes use coded messages to vent frustrations, gain advantages, avoid punishment, and undermine the elite.¹¹⁰ These concepts help us understand how indigenous litigants viewed themselves in the hierarchy of colonial society. Nearly every indigenous testimony in the record includes statements of loyalty and deference to the King as well as the desire for peaceful observation of the law. These statements create an outward facing public image of loyalty and lawfulness that obscures clandestine acts of resistance from the colonial legal system. The direct confrontational statements against *hacendados*, however, reveal that indigenous litigants felt no compulsion to pay deference to their Hispanic neighbors. Thus, these indigenous agrarian communities did not feel subordinate or at a disadvantage to the Spanish settlers (in the case of Tlaxcala, at least, they clearly thought themselves superior); instead, indigenous litigants believed they had the power to outmaneuver *hacendados* in order to win recognition of their water rights from the colonial administration.

The success of these tactics may have been miniscule in court, but for indigenous litigants the effects of display and performance lasted well beyond the outcome of the case. Shows of “symbolic compliance” such as displays of loyalty, quietude, and victimhood were an important factor in resistance efforts. Appearing loyal in public masked the private or clandestine

¹⁰⁹ AGNT 2897.10

¹¹⁰ Scott, *Domination and the Arts of Resistance*, 23-8.

efforts to undermine authority.¹¹¹ Likewise, reinforcing familiar narratives about the abuses committed by Spanish landowners against indigenous people may not have decided individual battles, but over time it may have shifted the thinking of colonial officials and put *hacendados* on the defensive in court.¹¹² Ulloa Callexas worried aloud about just such smearing in his testimony; he claimed that he would evict the Indians of Santa Maria Lachicho from the land himself, but that to do so might invite public “disgrace,” as had befallen other *hacendados* he knew.¹¹³ Thus, while not engaged in a unified movement against the Spanish, the rhetorical tactics used by indigenous communities played into a centuries-long fight over their possession of the land, water, and crops.

STRATEGIC USE OF THEFT, VIOLENCE, AND INTIMIDATION

The initial legal battle in Zimatlan ended quickly and decisively. It appears the pueblo never presented hard evidence to support its claim, and a survey of the land seemed to confirm the story of Ulloa Callexas. The court ruled in his favor, ordering the village of Santa Maria Lachicho to pay him fifty pesos in damages, a steep penalty on top of their tribute and loss of land. This did little to deter the people of the village, because nineteen months later on January 7, 1700, Ulloa Callexas again accused the village of invading his lands, this time heightening their use of violence and intimidation. He reported that the Indians were threatening his slaves, who were afraid to work lest they provoke attack. This time the *corregidor* Don Pedro Nuñez de Villatissenizo y Orozco responded, ordering that written notice be sent to the village enforcing their eviction from the land, and that an additional fifty pesos be added to the penalty. Upon

¹¹¹ Scott, *Weapons of the Weak*, 26.

¹¹² Ibid., 23.

¹¹³ AGEOAM 60.2, 1700. See Taylor, *Landlord and Peasant*, 158-60, for more information about the social cohesion of creole *hacendados* in Oaxaca. *Hacendados* could remain in good social standing even if they lost their land and fortunes, but a besmirched honor may have been enough to ostracize them.

receiving this news, the community leaders acknowledged the authority of the *corregidor*, but refused to leave the land until they had the chance to present their own evidence in Antequera.¹¹⁴

This infuriated Ulloa Callexas. On January 20th, he railed that the Indians had no evidence or right to the land and had “a natural tendency towards restlessness and tumultuousness.” The Indians, he claimed, grew more brazen in their violent resistance: armed groups of Indians had driven off him and his slaves, and they burned sheds on his property. He warned that unless the situation was resolved soon, violence would follow; he had a right to defend his lands, and the Indians must be punished to prevent a rebellion.¹¹⁵

For indigenous litigants trying to grow enough food to feed their families and pay tribute, changing policy for future generations was insufficient. They needed water immediately and could hardly wait for the gears of colonial administration to grind out a favorable outcome. In such situations, when faced with unpredictable rain and increasing demand on the water supply, communities took matters into their own hands, striking out against their opponents in acts designed either to take the water they needed directly, or intimidate their opponents into making concessions.

At the heart of many of these claims were charges that the defendant was *stealing* water that rightfully belonged to the plaintiff. Spanish law generally defined theft of water as illegally altering the regulated system of water distribution, such as adding new channels that diverted water granted to someone else, damaging someone else’s channel to impede their flow of water, or opening one’s own channel gate longer than specified in the official distribution. Colonial officials took these charges seriously, as changes in the official distribution of water could result

¹¹⁴ AGEOAM 60.2, 1700.

¹¹⁵ AGEOAM 60.2, 1700.

in crop loss for entire communities, risking starvation and a loss of tribute revenue. Furthermore, inequitable water distributions could be cause for civil strife. As part of a 1608 distribution in Texcoco, in the valley of Mexico, the Alcalde Mayor stipulated that

“In order to penalize transgressors of the said distribution, which would have neither force nor effect if it excused inconveniences, damages, or sorrows... I command that those who violate [the distribution], taking water that does not belong to them or maliciously stopping or impeding the flow [of water] to the owners of the land, shall incur a penalty of three hundred pesos [for the first offense], six hundred pesos for the second, and one thousand pesos for the third.”¹¹⁶

In most cases, indigenous communities came forward to sue Spanish encroachers, and there is evidence to suggest that the communities were intimately familiar with the official distribution of water, including the penalties for breaking it. In the 1718 case between the pueblo San Juan Bautista Apasco and the *hacendado* Don Joseph Estrada y Campa, the *principal* Juan Garcia asserted that the *hacendado* should be fined five hundred pesos for “violently stealing water.”¹¹⁷

This did not stop communities from directly seizing water when necessary. The 1683 dispute between Antequera and the pueblo of San Felipe highlights this example. After the Dean notified the Corregidor of Antequera that someone was stealing water meant for the city, the Corregidor ordered an inquiry into who was stealing the water. Multiple witnesses testified that Don Joseph Delgado was taking the water for himself and his pueblo; colonial officials went out to survey the river and found a wooden aqueduct diverting water to Delgado’s lands. Although he claimed to have a *merced de agua* dating back to 1679, the city and some of his neighbors thought the water was rightfully theirs and considered the construction of this aqueduct to be theft. Nor was the *merced* provided in the case; rather, Delgado had testimonies supporting his

¹¹⁶ AGNT 2787.7, 1608.

¹¹⁷ AGNT 2985.141, 1718.

possession of the *merced*. If this was indeed an unauthorized watercourse, then Delgado had built it in a manner surreptitious enough to avoid first notice.¹¹⁸

Obviously indigenous communities were not the only ones to use violence or sabotage to gain access and defend water resources. The 1666 Izucar lawsuit filed by the leaders of Chalma and Don Suasnavar y Aguirre showed definitively that the widow Doña Theresa Perez Delgado had used her servants and slaves to break open ditches belonging to the pueblo and the *hacendado*. Furthermore, the leaders of Chalma claimed that their “people were afraid that she and her servants would return to treat them badly and steal their water.”¹¹⁹ This raises the possibility that the widow was trying to monopolize water access through intimidation, using her servants and slaves as private water guards. Lipsett-Rivera described how this became widespread in Puebla in the eighteenth century; Perez Delgado’s actions could be an early example of this practice.¹²⁰

These stories show that direct theft of water occurred and was hotly contested, but there is also evidence that indigenous communities sometimes sought to appropriate water by exploiting the legal channels themselves. In the 1655 case briefly mentioned earlier, Don Martin Lazaro, governor of Achichihuacan, sought an *amparo* from the Real Audiencia for a course of water that flowed from the river Huilango. In its response to the governor, the Real Audiencia said that notice of the request would be posted in the *cabecera* Atlixco in both Spanish and Nahuatl. If no person or village contested the request, then the *amparo* would be granted. The Real Audiencia claimed that local officials, Spanish and Indian alike, have been known to

¹¹⁸ AGEOAM 5.1, 1683.

¹¹⁹ AGNT 109.1, 1666.

¹²⁰ Lipsett-Rivera, *To Defend Our Water*, 148-51.

dispossess people and villages of their land or water without hearing their defenses. In other words, the Real Audiencia was aware of a practice in which individuals and communities sought to use *amparos* and *mercedes* to steal land and water from their rightful owners under the guise of legal rulings.¹²¹ In fact, as a result of the 1642 case in Actopan, the colonial official Pedro Garcia de Hoyos, who ironically held the title of “Protector of the Indians,” was charged with illegally selling the pueblo’s lowlands to Spanish colonists. The Real Audiencia charged him 200 pesos for failing in his duties and ordered all the Spanish colonists evicted from the pueblo’s lowlands.¹²² Thus, although theft of water was often a surreptitious act done in desperation, sometimes people brazenly stole water possession in public through legal channels, exploiting the very system meant to distribute water equitably. Such acts were risky, but if successful could result in a much stronger legal and *de facto* possession of the resource.

If all else failed, communities could turn to violence or intimidation to defend their access to resources. As previously mentioned, even the initial surveys (*vistas de ojos*) of the disputed waterway could draw a violent response.¹²³ It appears that the surveyor in our Oaxacan case, Phelipe de Gamboa, suffered no ill treatment from the residents of Santa Maria Lachicho. Instead, they focused their efforts directly at Ulloa Callexas. He accused the pueblo of Santa Maria Lachicho of stealing and killing his livestock. This was a common complaint among *hacendados*. The Spaniards settling on Actopan’s lowlands charged the indigenous people with stealing chickens and killing livestock. The village’s representative Augustin Francisco denied that his people stole anything but countered the accusation by stating that their neighbor’s

¹²¹ AGNT 104.7, 1655.

¹²² AGNT 1693.2, 1642.

¹²³ Taylor, *Landlord and Peasant*, 85.

chickens and “beasts they acquire for slaughter” often “eat and destroy our magueys, nopales, and milpas that we plant for our sustenance.” Thus, while denying any wrongdoing, Augustin Francisco claimed a legitimate defense for this action: the village acted in defense of their property and livelihood. This brilliant legal move maintained the guise of peaceful, loyal Indian subject while reinforcing the narrative that Spanish colonists were abusing the “defenseless” Indians.¹²⁴

Ulloa Callexas claimed that the Indians were killing his livestock “with guns, arms which they are forbidden to have.” This accusation went beyond the self-defense narrative; it showed Indians invading the lands of a “peaceful” Spanish hacienda and attacking his livelihood with weapons of war. If true, these actions might have been taken to intimidate Ulloa Callexas, with the implication that violent rebellion could follow if he did not allow the community to plant in the lowlands. This would be a clear show of force to keep Ulloa Callexas from expanding his holdings to preserve their basic resources. The villagers of Santa Maria Lachicho never mentioned the *hacendado*’s livestock nor did they directly deny attacking it, but they did accuse him of attacking their fields of nopal.¹²⁵ Thus, without admitting any guilt, the pueblo could still send a clear message to the Spanish colonists witnessing the proceedings: the community was willing to defend what it believed to be its rightful possessions, by force if necessary.

As a last resort, intimidation tactics could escalate into a threat of outright rebellion. The Zimatlan case was appealed up to the Real Audiencia in Mexico City, who on January 27th ruled again in favor of Don Callexas. They ordered that the indigenous people be informed that they might leave of their own free will, but that they would be forced off if they resisted. They

¹²⁴ AGNT 1693.2, 1642.

¹²⁵ AGEOAM 60.2, 1700.

received notice of this ruling on February 8th, with their eviction set for the 16th. When the day arrived and Don Callexas went out with his men and colonial officials to carry out the eviction, the community members were waiting to meet him atop a hill near the disputed lands:

The echo of a coarse trumpet rang through the mountains, which proved to originate from the Indians of the said village of Santa Maria Lachicho who had already come to wait... on the ridge of a hill at a distance of around a quarter of a league, and as we came they continued to play the trumpet... there were already thirty Indians in number, among them an *alcalde* that is said to be called Baltazar Marcos and another Rafael de la Cruz the constable... some of them with the *alcalde* were inebriated, and many of them had hatchets and clubs in their hands...

As Ulloa Callexas approached their fields, supported by slaves, neighbors, and colonial officials, the people of the pueblo had only two options remaining: surrender their access to the land and water, or mount a defense. They chose to make a last stand on a high defensible position, armed with whatever they could lay their hands on (e.g. sticks, hatchets, and clubs). They sounded the trumpets and drums of war, but they did not attack. Despite Don Callexas' threats of jail and punishment, the pueblo held its ground. The leaders presented the royal officials with notification of countersuit and claimed to have papers and maps providing possession of the land and water in their village. After a tense standoff, the Spanish party backed down, and the legal battle continued.¹²⁶ It was not the community's intent to attack the *hacendado* or his men, or to overthrow the colonial government; rather, they wanted to show their willingness to use violence to maintain a hold of their possessions. They wanted to intimidate the Spanish into continuing nonviolent negotiations, and the tactic clearly worked.

Santa Maria Lachicho's actions reveal the difference between the offensive and defensive strategies engaged by these communities. In most other cases, the indigenous communities had lost or were in danger of losing their practical access to water but believed that they had the legal

¹²⁶ AGEOAM 60.2, 1700.

right and evidence to defend it. They engaged in offensive tactics to win back their rights to the water. For the pueblo of Santa Maria Lachicho, the inverse was true. They clearly held practical and actual possession over the lowlands and had the numbers to prevent encroachments. They were losing the legal battle, however, and would eventually lose legal rights, making their hold on the lowlands unsustainable. They thus engaged in a careful series of delaying tactics, drawing out the court proceedings into a years-long struggle. They provided contradictions, hinted at evidence, ignored eviction notices, all the while continuing to intimidate Ulloa Callexas to prevent him from seizing the lowlands. They only mirrored their opponent's escalation, but never exceeded it. They seemed to know that winning the suit outright was highly unlikely. Thus in this instance, their goal was not to win, but to hold out as long as possible, and gain as much as they could grow and harvest before they lost the lowlands.

CONCLUSIONS

The story of Santa Maria Lachicho ends after the pueblo submitted its appeal. There is no way of knowing who won the suit, or if the indigenous village had documented evidence in support of its case. Regardless of the outcome, the events that transpired outside of the courtroom reveal just as much as those within. This dispute and the others analyzed here show the lengths that indigenous communities were willing to undertake to ensure their access to water and the diverse strategies they employed to win this access.

Indigenous struggles to maintain a hold on their traditional resources were long fought and continue to this day. The environmental, demographic, and societal pressures on resources like water brought increasing competition in the seventeenth century; indigenous communities, which had suffered tremendous losses over the preceding century from disease, violence, and exploitation, started this competition in a disadvantaged position. Through resilience, willpower,

and cunning, however, these communities employed every tactic to maintain, and in some cases expand, their hold on the land and its resources. They were willing to bend, skirt, or break the law when they lacked documents, could press an advantageous situation, or felt they had no other alternative. They exploited an intimate knowledge of their physical and social landscape, as well as the Spanish legal code, to seek advantage wherever and however they could. The evidence suggests that the communities followed a pattern of escalation; they turned to direct action when negotiations or lawsuits were no longer viable, either because they lacked evidence, because the system had worked against them, or because their dire situation precluded waiting for an outcome. These tactics ranged from pursuing multiple legal avenues, engaging in public discourse to shape local opinions, building alliances with their neighbors, challenging the honor of rivals, and, when all else failed, taking direct action to defend what they believed was rightfully theirs. The fight over water and land was a constant struggle that undermined any notion of a *pax colonial*.

In the foreword of Kellog and Ruiz Medrano's *Negotiation within Domination*, Brian Owensby argued that while the courts allowed the Spanish to maintain hegemonic control over New Spain's indigenous population, they also served as a "privileged space of interaction" in which indigenous litigants could confront other indigenous people, Spanish colonists, and even colonial officials in "critical" and "political engagement."¹²⁷ Colonial power balances were never equitable, and over time Spanish colonists were in large part successful in wresting control of the land and resources from indigenous agrarian communities in most parts of Mexico's highlands. In the sixteenth and seventeenth centuries this outcome was far from certain, however, and colonial power imbalances were much less cemented. Ulloa Callexas' rhetoric consistently

¹²⁷ Brian Owensby, "Foreword" in *Negotiation within Domination*, xii.

reinforced colonial notions of Indian subordination and inferiority: he claimed they had “a natural tendency towards restlessness and tumultuousness” and reminded the courts that the community was “not permitted” to own firearms. These statements reveal an insecurity about the stability of the colonial hierarchy; the tenacious success of indigenous communities threatened the status of *hacendados*. Indigenous communities pressed every advantage to achieve these victories over their adversaries. Owensby’s statement suggests that historians should embrace the perspectives and goals of indigenous litigants and evaluate their efforts on those terms.

The lawsuits discussed here imply that disputes over resources were about much more than material gain – they were a political struggle over sovereignty, autonomy, and the preservation of the communities’ traditional rights and privileges. Furthermore, these motivations were not subliminal within everyday struggles over economic resources, but were intentional, explicit, and integral to organizing substantial resistance against threats to indigenous sovereignty over their material resources. The pueblos sought to maintain their status as individual political units by protecting their land and resources. They did this with an eye towards both immediate concerns of subsistence as well as long-term solutions to endemic problems. The political battle lines transcended ethnicity or class; instead, communities sought to build coalitions where beneficial, and worked to undermine their enemies wherever possible, be they Hispanic or indigenous. They shaped the narrative around rural conflicts, gradually inverting the stereotypes used by Spaniards. The decision-making was always pragmatic, but at the core of this posturing, maneuvering, and strategizing was a deeply rooted political culture that sought sovereignty and autonomy at the local level.

Rather than looking solely for examples of violent uprisings or for the emergence of economically or ethnically unified classes, then, scholars should turn more attention to these

long-fought individual cases. They may lack the excitement and drama of a rebellion, but they show that most indigenous communities fought colonialism daily through the courts and small acts of resistance, and did so defiantly to maintain their communal organization and the possession of their ancestral lands and resources despite the increasing commodification and privatization of the landscape.

This study also shows that we must look beyond landholding and borders to understand the conflicts and alliances mapped on the colonial landscape. Many of the documents analyzed here show that in places where land ownership and borders were clearly and indisputably defined, resources like water remained a source of tension and competition. We need to think beyond cropland and grazing pastures to appreciate the complex rural economies that we study. Water is only one example – firewood, game animals, fisheries, and wild plants are also important resources that transcend borders, but there has yet to be a systematic study of how these contribute to the rural economy or the political tensions between agrarian interests. We must also recognize the importance of nonmaterial resources, like cultural and religious sites, and the ways in which they shaped agrarian conflict.

Finally, we need to shift our gaze away from the crisis points of the eighteenth century and explore in more depth the transitions of the seventeenth century. The tactics employed during the latter century's water shortages, population booms, and administrative changes were informed by the successes and failures of the former century. Furthermore, the immediate resistance from indigenous communities against encroachment on their resources at a time when land and water were more plentiful shows conclusively that indigenous agrarian communities held objectives that extended beyond the current growing season and their immediately material possessions. Instead, indigenous resistance in the seventeenth century was characterized by

forethought, political strategy, and communal sovereignty. They recognized the shifting nature of colonial land and resource possession; they knew their legal rights, their extralegal options, and how to leverage them to their advantage; and they did this not just to keep hold of their water and cropland, but to assert their ancestral power and unity under the threat of external forces.

APPENDIX: ARCHIVAL SOURCES USED (by date)

Date	Archival Location	Physical Location	Description
1587	AGNT 1907.1	Atlixco Valley, Puebla	A distribution of water between the indigenous village of Acatzingo and the indigenous city of Tepeaca.
1587	AGNT 2948.39	Guautitlan, Mexico	The leaders of Guautitlan asking for an <i>amparo</i> for a dam on the Guautitlan river that they use to collect and store water.
1608	AGNM 26, 68f-v	Mexico City	The viceroy grants three <i>caballerías</i> of land, along with water from an <i>arroyo</i> for irrigation, to the indigenous <i>principal</i> of Cholula.
1608	AGNT 2787.7	Texcoco, Mexico	A distribution of water from the Papalutla river to the surrounding pueblos and haciendas.
1616	AGNT 2736.1	Malinalco, Mexico	Petition of Jorge de Resa to the <i>alcalde mayor</i> of Malinalco for the use of water from the Tecomatlan river to irrigate his hacienda. There are complaints from the indigenous pueblos of San Bartolome, Santiago, and San Jeronimo, as well as from <i>vecinos</i> Pedro Ponce de Leon, Ines de Sayas, and Juan Andres Casa Fuerte, all of whom affirm their right and traditional access to said water.
1642-1651	AGNT 1693.2	Actopan, Hidalgo	Charges levied against the <i>procurador</i> Pedro Garcia de Hoyos for illegally selling land belonging to the pueblo Actopan while the pueblo was engaged in a dispute with its neighbors over said lands.
1653	AGNRA 4.5	Guautitlan, Mexico	Viceroy orders Captain Francisco de Cordoba Villafranca, <i>contador</i> of the Tribunal and Real Audiencia, to oversee repairs to the banks of the Guautitlan river.
1655	AGNT 104.7	Atlixco, Puebla	Don Martin Lazaro, <i>gobernador</i> of the pueblo Achichihuacan, asks for an <i>amparo</i> for a course of water taken from the Huilango river.
1666	AGNT 109.1	Izucar, Puebla	A water dispute in Itlapana (Tlapanalá) between Doña Teresa Perez Delgado and Captain Don Juan de Suasnavar y Aguirre, supported by the indigenous pueblo of Chalma.
1675	AGNT 116.6	Tlaxcala	Don Diego Martin Faustino, indigenous <i>gobernador</i> of Tlaxcala, accuses Don Diego Flores de Cierra y Valdes, owner of the hacienda Sultepec, of encroaching on the city's forests and stealing its water.
1683	AGEOAM 5.1	Antequera, Oaxaca	Don Joseph de Henestrosa, <i>corregidor</i> of Antequera, accuses Don Joseph Delgado y Arteaga, <i>regidor</i> of the pueblo San Felipe, of diverting via an illegal wooden aquaduct water meant for use by the city of Antequera.

1694	AGNT 2897.10	Tacuba, Mexico	Juan Formosa, <i>gobernador</i> of Tultitlan, accuses the <i>hacendado</i> Felix Vela del Castillo of taking more than his share of water from the Guautitlan river.
1697	AGNT 2699.5	Tlaxcala	Documents related to an <i>ojo de agua</i> at the foot of San Matias y Belen mountain, belonging to the pueblos of the same name.
1700	AGEOAM 60.2	Zimatlan, Oaxaca	Don Alfarez Nicolas Ulloa Callexas, owner of the hacienda Matagallinas and a sugar mill in Zimatlan, accuses the pueblo Santa Maria Lachicho of usurping his land near a river, planting crops there, drawing his water, and harassing his servants.
1718	AGNT 2985.141	Celaya, Guanajuato	Juan Garcia de Dios Rey de Castilla, <i>alcalde mayor</i> of the pueblo San Juan Bautista Apasco, accuses the <i>hacendado</i> Don Joseph de Estrada y Campa of illegally digging a channel to steal water from the pueblo.
1733	AGEOAM 49.1	Villa de Etla, Oaxaca	Don Pedro Joseph García agrees to pay the pueblo Nuestra Señora de Guadalupe 15 pesos a year to draw water from the Atoyaque river.

ARCHIVES REFERENCED

Archivo General del Estado de Oaxaca, Alcaldes Mayores (AGEOAM)

Archivo General de la Nación de Mexico, Mercedes (AGNM)

———, Ríos y Acequias (AGNRA)

———, Tierras (AGNT)

Archival material is cited by archive and collection (using the abbreviations above), followed by a decimal form of the volume and *expediente* numbers (i.e., Volume 60, Expediente 2 = 60.2), followed by the page numbers (when applicable; f = *frente*/front, v = *de vuelta*/back), followed by the year the document was produced.

BIBLIOGRAPHY

Asselbergs, Florine. *Conquered Conquistadors: The Lienzo de Quauquechollan: A Nahua Vision of the Conquest of Guatemala*. Boulder: University Press of Colorado, 2004.

Borah, Woodrow Wilson. *Justice by Insurance: The General Indian Court of Colonial Mexico and the Legal Aides of the Half-Real*. Berkeley: University of California Press, 1983.

Codex Tulane (Codex Huamelulpan), 1802, Call Number F1219, LAL Rare Book Collection, Tulane University Latin American Library, New Orleans, LA, USA.

Endfield, Georgina. *Climate and Society in Colonial Mexico: A Study in Vulnerability*. Malden: Blackwell, 2008.

Hanke, Lewis. *The Spanish Struggle for Justice in the Conquest of America*. College Station: Texas A&M University Press, 2002.

Kellog, Susan and Ethelia Ruiz Medrano, eds. *Negotiation within Domination: New Spain's Indian Pueblos Confront the Spanish State*. Boulder: University Press of Colorado, 2010.

Lipsett-Rivera, Sonya. "Indigenous Communities and Water Rights in Colonial Puebla: Patterns of Resistance," *The Americas* 48, no. 4 (April 1992): 463-83.

———. *To Defend Our Water with the Blood of Our Veins*. Albuquerque: The University of New Mexico Press, 1999.

Lockhart, James. *The Nahuas After Conquest: A Social and Cultural History of the Indians of Central Mexico, Sixteenth Through Eighteenth Centuries*. Stanford: Stanford University Press, 1992.

Murphey, Michael E. *Irrigation in the Bajío Region of Colonial Mexico*. Dellplain Latin American Studies, no. 19. Boulder: Westview Press, 1986.

- Owensby, Brian Philip. *Empire of Law and Indian Justice in Colonial Mexico*. Stanford, Calif: Stanford University Press, 2008.
- Romero Frizzi, María de los Ángeles. *El sol y la cruz: los pueblos indios de Oaxaca colonial*. México: Centro de Investigaciones y Estudios Superiores en Antropología Social, 1996.
- Ruiz-Medrano, Ethelia. *Mexico's Indigenous Communities: Their Lands and Histories, 1500-2010*. Boulder: University Press of Colorado, 2011.
- Sanders, William T., Jeffrey R. Parsons, and Robert S. Santley. *The Basin of Mexico: Ecological Processes in the Evolution of a Civilization*. New York: Academic Press Inc., 1979.
- Scarborough, Vernon L. *The Flow of Power: Ancient Water Systems and Landscapes*. Santa Fe: SAR Press, 2003.
- Schroeder, Susan, Susan M. Deeds, Ronald Spores, Kevin Gosner, Robert W. Patch, Christon I. Archer, and Murdo J. MacLeod. *Native Resistance and the Pax Colonial of New Spain*. Lincoln: University of Nebraska Press, 1998.
- Scott, James C. *Weapons of the Weak: Everyday Forms of Peasant Resistance*. New Haven: Yale University Press, 1985.
- . *Domination and the Arts of Resistance: Hidden Transcripts*. New Haven: Yale University Press, 1990.
- Spores, Ronald. "Settlement, Farming Technology, and Environment in the Nochixtlan Valley." *Science* 166, no. 3905 (October 31, 1969): 557-69.
- Taylor, William B. *Drinking, Homicide, and Rebellion in Colonial Mexican Villages*. Stanford: Stanford University Press, 1979.
- . "Land and Water Rights in the Viceroyalty of New Spain." *New Mexico Historical Review* 50, no. 3 (July 1, 1975): 189-212.
- . *Landlord and Peasant in Colonial Oaxaca*. Stanford: Stanford University Press, 1972.
- Wheatley, Helen, ed. *Agriculture, Resource Exploitation, and Environmental Change*. An Expanding World, v. 17. Aldershot, Hampshire, Great Britain; Brookfield, Vt: Variorum, 1997.
- Wilken, Gene C. *Good Farmers: Traditional Agricultural Resource Management in Mexico and Central America*. Berkeley: University of California Press, 1987.
- Yannakakis, Yanna. *The Art of Being In-between: Native Intermediaries, Indian Identity, and Local Rule in Colonial Oaxaca*. Durham: Duke University Press, 2008.